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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
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Calling Party Pays Service Offering in the Commercial Mobile Radio Services	)	WT Docket No. 97-207

COMMENTS OF SBC COMMUNICATIONS INC.

SBC COMMUNICATIONS INC.

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September 17, 1999

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SUMMARY

SBC Communications Inc. (SBC) is not opposed to the offering of *optional* Calling Party Pays (CPP) services by Commercial Mobile Radio Service (CMRS) providers. However, SBC believes that the free market, not regulation, should decide whether or not those services are offered and, if so, under what terms.

SBC has conducted a detailed and factually rich analysis of the state of wireless service penetration and competition in countries with and without CPP and is submitting that analysis with these comments. The results of SBC's analysis place in question the view that CPP is a necessary market catalyst, and tend to show that the alleged and/or expected benefits of CPP in the United States, as well as in other countries, may be significantly overstated.

SBC believes that Local Exchange Carriers (LECs) should not be required to bill and collect for CPP for CMRS, but should not be prohibited from doing so.

SBC supports the NPRM's proposal to adopt a uniform notification announcement for callers which discloses all of the essential terms and conditions, including prices, for CPP services and allows the caller to terminate the call to avoid being charged.

SBC is opposed to optional CPP being generally applied to paging and believes that the Commission should ensure that CPP providers do not double recover costs.

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COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc. (SBC), on behalf of its telephone operating company and wireless subsidiaries,[1] submits the following comments on the Commission's *Declaratory Ruling (DR) and Notice of Proposed Rule Making (NPRM)* on Calling Party Pays (CPP) services offered by Commercial Mobile Radio Service (CMRS) providers (released July 7, 1999).

I. The Market, Not Regulation, Should Determine Whether Or Not CPP Is Offered By CMRS Providers In The United States.

SBC is not opposed to the offering of *optional* CPP services by CMRS providers. However, SBC believes that the free market, not regulation, should decide whether or not those services are offered and, if so, under what terms.

SBC has conducted a detailed and factually rich analysis of the state of wireless service penetration and competition in countries with and without CPP, and a copy of the analysis is attached to these comments.[2] The results of SBC's analysis

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[1] Southwestern Bell Telephone Company (SWBT), Pacific Bell, Nevada Bell, Southern New England Telephone Company, Southwestern Bell Mobile Systems, Southwestern Bell Wireless, Pacific Bell Wireless, Cellular Communications of Puerto Rico, Inc., and Southern New England Telephone Wireless Services.

[2] Douglas Mudd for SBC Communications Inc., *Calling Party Pays: Let The Market Decide* (September 1999). (hereafter, CPP study). The analysis is submitted in response to the NPRM's request for comments to update the record on the experience with CPP, its impact on the use of mobile services in other countries, and on recent competitive trends and other CMRS offerings in the U.S. domestic market that may be relevant to the introduction of CPP in the United States. (NPRM, ¶ 25).

place in question the view that CPP is a necessary market catalyst, and tend to show that the alleged and/or expected benefits of CPP in the United States, as well as in other countries, may be significantly overstated.

As indicated in the Statement of Commissioner Furchtgott-Roth, wireless penetration and competition are doing just fine in the United States without the introduction of CPP. CMRS in the United States has more than 69 million subscribers and by the end of 1998 had achieved a penetration rate of 26%. Industry and financial market analysts forecast continued growth over the next few years, with U.S. wireless subscribership increasing 14%-15% annually and CMRS penetration potentially reaching 47% by the year 2002. (CPP study, pp. 11-12, & n. 35).

The Commission bases its tentative conclusions on CPP on the experience in other countries with CPP. (NPRM, para. 24). However, CMRS subscribership in the United States is comparable to or exceeds that of a number of other countries (although not all countries) with CPP. Using 1998/1999 data on the number of wireless subscribers as a percentage of the national population, U.S. penetration was 28.8% compared to 24.5% for fourteen Western European countries and 7.1% for ten Latin American countries. (CPP study, pp. 17 & 22, Tables 3 & 5).[3]

The effectiveness of competition in the United States has also been dramatic in terms of producing price reductions and lower price levels for CMRS. From 1996 to 1998, the overall price per minute for wireless subscribers purchasing 250 minutes of use per month in U.S. major urban markets fell 45%-64%. Even with the 1998 European and Latin American average prices per minute reflecting the effects of CPP availability, in only 5 out of the 14 Western European major markets studied did wireless service prices for subscribers purchasing 250 minutes of use per month decline as sharply as in the U.S.

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[3] The fourteen Western European countries studied were: Denmark, Norway, Sweden, United Kingdom, Austria, Belgium, France, Germany, Greece, Italy, Netherlands, Portugal, Spain, and Switzerland. The ten Latin American countries studied were: Argentina, Bolivia, Brazil, Chile, Columbia, Costa Rico, Mexico, Panama, Peru, and Venezuela.

In the five major Latin American markets studied, overall price declines were substantially less, with the average price per minute for subscribers purchasing 250 minutes of use falling about 30% or less. (CPP study, pp. 10, 26-28, Tables 1 & 6).

Furthermore, during 1998, the overall average price per minute for wireless service in four major U.S. market areas at the 500 minute usage level was in the range of 10 cents to 15 cents, while Western European wireless subscribers' average price was generally about 20 cents to 25 cents per minute, and the average price for Latin American wireless subscribers was 30 cents to 40 cents per minute. (CPP study, p. 28 & n. 80).

The SBC analysis further shows that many of the reasons that the Commission cites for authorizing CPP have already been addressed in the U.S., or may not produce the results stated. For example, the Commission states that "[t]here is significant evidence that CPP would help encourage CMRS subscribers to leave their handsets on and available to receive incoming calls;" the idea being that they do not want to be responsible for paying for unsolicited incoming calls and, for the same reason, are hesitant to give out their mobile phone numbers. (NPRM, paras. 3 & 23). Of course, as the CPP study points out, CMRS providers in the U.S. have already addressed these concerns by developing alternative features and pricing plans. An example is Sprint's nationwide PCS "Free and Clear" plan which makes "the first minute free" for incoming calls. Another alternative is AT&T's nationwide "Digital One Rate" plan which includes a Caller ID feature, that permits wireless subscribers to effectively screen incoming calls and determine which, if any, to answer. In addition, some CMRS options include voice mail which makes it easier for a CMRS customer to more efficiently handle and respond to incoming calls. (CPP study, p. 5 & n. 17).[4]

The second reason for the Commission tentatively endorsing CPP is its belief that CPP holds the "potential for making mobile wireless services more effectively available

[4] Yet another reason why CMRS customers may be unwilling to leave their wireless phones on is the concern with the phone going out as the battery power becomes low. CMRS providers have also addressed this concern by offering equipment with extended battery lives.

to large numbers of customers who do not subscribe today or who strictly limit their usage." (NPRM, para. 3). However, low-income, low-volume, and mid-volume consumers already have a viable option for accomplishing those objectives in prepaid wireless service. Customers subscribing to prepaid wireless service purchase a specified number of airtime minutes and are provided with a mobile telephone instrument. In this manner, CMRS is being made available to consumers who either did not or could not previously subscribe to wireless service and who have economic reasons for limiting their usage. Due to the nature of the billing arrangement, prepaid wireless services require no credit checks. It also allows CMRS providers to broaden their customer base and revenue streams without having to deal with all of the complexities of CPP. (CPP study, pp. 5-7, & n. 19).

Finally, the Commission apparently believes that CPP will stimulate wireless usage and could ultimately lead to wireless becoming a true competitive alternative to wireline local exchange services for residential customers. (NPRM, paras. 3, 4, 21-24). The Commission recognizes that it has no data regarding increased usage of CPP subscribers in the United States, but believes that data from other countries indicate that wireless subscribership and usage increase dramatically once CPP is implemented. (NPRM, para. 24).[5] Actually, many factors can affect the level of CMRS subscribership and usage, including the introduction of prepaid wireless services, the authorization of

[5] The international experience with CPP may have little bearing on the demand for CPP in the United States because market conditions in the United States differ markedly from the conditions in many of the other countries where CPP has allegedly stimulated wireless usage. In many of those countries, wireless service has developed as a direct result of inferior wireline service. Therefore, it is not surprising that, in those countries, wireless service is a substitute for wireline services, and is used for both making and receiving calls. In the United States, by contrast, wireline service is more mature and more reliable. As a result, U.S. consumers generally rely upon the convenience of wireline service for the majority of their incoming and outgoing calls to the home or office, while relying on the convenience of wireless service primarily for calling when away from the home or office. It is true, however, that some CMRS providers (*e.g.*, AT&T Wireless in Plano, Texas) have begun advertising their products as alternatives to wireline telephone service. Significantly, this development is occurring today without any reference to or reliance on CPP. (CPP study, pp. 30 & 32).

new competitors, price reductions resulting from competition, the health of the particular country's economy and political climate, advances in the technology, and the availability, reliability, and pricing of alternative wireline services. Thus, it would be a mistake to attribute growth in wireless subscribership and usage solely to the introduction of CPP. (CPP study, pp. 23-26).

In Columbia, for example, following the introduction of CPP in 1994, COMCEL reported only a slight increase in average usage per subscriber – from 235 to 245 minutes per month during 1995. Not only did wireless usage not dramatically increase with the introduction of CPP in Columbia; during 1997, three years later, the average usage per subscriber actually declined to about 200 minutes per month, a level below the average level which existed before the introduction of CPP. (CPP study, p. 24).

Moreover, there is evidence concerning the likely outcome of CPP introduction in the United States that contradicts many of the claims concerning CPP. Most U.S. consumers are accustomed to paying a flat monthly rate for local telephone service with unlimited local calling for no additional charge.[6] While the Commission points to recent market research indicating 55% of nonsubscribers to wireless service agree that "charging the calling party is a fair way to charge for incoming calls to a wireless phone" (NPRM, para. 22), that view of "fairness" is not likely to translate into U.S. consumer acceptance of CPP or into a willingness on the part of non-CMRS subscribers to pay for such calls. On the contrary, the results of a 1998 Yankee Group survey indicate 77% of consumers would either be "not at all willing" or "not very willing" to pay for calls to a wireless phone or pager. (CPP study, p. 35).[7]

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[6] In contrast, only six of the sixty-five countries surveyed by the International Bureau "use a flat rate tariff plan for local calls similar to that found in the United States." (CPP NOI at ¶ 17, n. 24). Consequently, the reaction of consumers in those other fifty-nine countries to CPP can be expected to be radically different from the reaction of consumers in the United States because, unlike U.S. consumers, they are already used to paying usage-sensitive rates for local calling. (CPP study, p. 34).

[7] Even if the widespread availability of CPP were to succeed in encouraging wireless customers to leave their phones on more often, calls to those numbers will only increase if *callers* are willing to make calls to wireless customers with the CPP service.

This U.S. consumer opposition to usage-sensitive charges for local service has been previously documented. In each of the six U.S. states offering local exchange measured service, fewer than 7% of local exchange service customers have subscribed to the measured offering. When GTE converted three of its Illinois exchanges from monthly flat rates for local service to a local measured service rate structure, monthly local telephone calls per residence main station generally declined by as much as 12%. In much the same vein, directory assistance call volumes declined by 50% to 80% following the imposition of a 10 cent or 20 cent per call charge for a service previously regarded as free. (CPP study, pp. 34-35 & n. 92).

The GTE example is instructive on the allegation that CPP could result in increased competition to wireline local exchange service. GTE's residence customers in those exchanges previously paid between $6.30 and $11.30 per month for access to the network and unlimited local usage. Those flat rates were supplanted by tariffs that included monthly charges ranging from $2.50 to $5.70 and charges of 2.5 cents per call and 1 cent a minute, or an average price for a four minute call of 1.5 cents per minute. If that price change precipitated a 12% decline in residence local calling, one can anticipate a much greater decline if the airtime charge to the calling party for CPP is approximately 10 cents or 20 cents per minute. (CPP study, pp. 34-35 & n. 92).[8]

Nor is it at all certain that CPP will guarantee an increase in the average wireless usage per subscriber in the United States. Consumers that quickly adopt new technologies tend to be the heaviest users of those services. Thus, we can expect that the heaviest users are already CMRS subscribers, and that any new subscribers that might be

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Once a party decides to place a call, that party is likely to compare the cost of placing a wireline call with the cost of placing a call to a wireless number. In doing so, the calling party may well conclude it is cheaper to make the call to the wireless customer's wireline telephone number as opposed to calling his or her wireless number because of the additional cost involved. This factor could have the effect of reducing wireless usage and the number of wireline-originated calls that are made to wireless phone numbers. (CPP study, pp. 33-36).

[8] 20 cents per minute is the approximate average bundled price for wireless services in North America. (CPP study, p. 34 & n. 92).

attracted by CPP would be relatively low volume users. As the proportion of relatively lower volume users subscribing to wireless services increases, it is entirely possible, and indeed likely, that the overall average monthly usage per subscriber will decline. (CPP study, p. 33). Thus, the CPP study demonstrates that, in many cases, the factual underpinnings for the Commission's tentative endorsement of CPP as a national communications policy for the United States appear to be significantly overstated and, in some cases, the assumptions themselves are incorrect or misleading.

II. CPP Should Not Be Generally Applied To Paging.

The Commission suggests that CPP may also be applied to paging services. (NPRM, n. 1). SBC believes that the Commission's CPP analysis does not generally apply to paging.

Paging services are traditionally one-way services that do not compete with two-way voice services provided over the wireline local exchange network. There is little or no resistance, to SBC's knowledge, on the part of paging service customers to making their numbers available. Also, unlike many CMRS customers, many paging service customers generally pay a flat rate for monthly service up to a certain number of pages, as opposed to usage-sensitive rates for that service.[9] And applying CPP to paging services is not likely to increase or decrease the number of calls made to pagers because of the limited duration of most pages. For these reasons and others, some of the Commission's justifications for tentatively endorsing CPP as an option for CMRS do not apply to paging.

III. LECs Should Not Be Required To Bill And Collect For CPP, But Should Not Be Prohibited From Doing So.

The NPRM seeks comments on whether LEC billing and collection is needed for CPP to be a viable service option nationwide. (NPRM, para. 55).[10] The NPRM also

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[9] However, some paging providers charge their customers for calls made from payphones.

[10] Many CMRS companies render bills to their customers today through their own internal billing systems, and some use third party providers to render those billings.

seeks comments on the various possible jurisdictional bases for requiring LECs to provide CPP billing and collection. (NPRM, para. 56).

SBC is opposed to any requirement that LECs be required to bill and collect for CPP. The Commission has determined in its Declaratory Ruling that CPP is a "CMRS-provided option," which is or will be offered by the CMRS provider, not the LEC. (DR, paras. 8, 15-19). Consequently, it is inappropriate to suggest that LECs should be, or even can be, required to bill and collect for CMRS-provided CPP.

Indeed, the Commission has previously determined, in the *Audio Communications* proceeding,[11] that billing and collection is not a common carrier service subject to regulation under Title II. Requiring LEC billing and collection for CMRS-provided CPP would conflict with that precedent. The existence of third party billing and collection services from credit card companies, clearinghouses, and public utility firms make LEC billing and collection services unnecessary. (*Id.*, paras. 18, 20 and 32 and n36). The Commission also determined in that case that billing and collection was not subject to its ancillary jurisdiction under Title I. (*Id.*, para. 30). Although the decision in *Audio Communications* involved an interexchange carrier's (IXC) refusal to provide billing and collection services, the Commission specifically noted in its decision that it was not inclined to depart from its prior finding that LEC billing and collection falls outside the scope of Title II. The Commission stated that it was even less inclined to order LECs to provide billing and collection services after its decision requiring LECs to tariff the provision of billing name, and address information (BNA). (*Id.*, paras. 11, 18, and n. 35).[12]

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[11] *In the Matter of Audio Communications, Inc., Petition for a Declaratory Ruling that the 900 Service Guidelines of US Sprint Communications Co. Violate Sections 201(a) and 202(a) of the Communications Act*, 8 FCC Rcd 8697 (1993).

[12] SWBT FCC Tariff No. 128, Pacific Bell FCC Tariff No. 173, and Nevada Bell FCC Tariff No. 1. CMRS providers already have the calling party's originating telephone number and with BNA could bill the calling party for CPP or have that billing accomplished by a non-LEC, third party. CMRS providers currently bill many of their non-CPP services through means other than being included on the LEC's bill. Moreover, LECs are required to render bills monthly and CMRS providers could save on the cost of

Nothing in the Telecommunications Act of 1996 changed the Commission's prior rulings on billing and collection. As the Commission previously determined, the lack of billing and collection service from the originating provider does not "significantly threaten the availability" of the service. (*Id.*, para. 31). This conclusion is just as true for CPP as it was for other services in 1992 and 1993.

The '96 Act does not require that the LECs provide billing and collection services. Like the Commission's decisions on *Joint Use Calling Cards*,[13] it only requires LECs to provide "information sufficient for billing and collection."[14] That obligation is clearly satisfied by the LECs provision of BNA. Only three CMRS providers (AirTouch, Omnipoint, and Vanguard) even claim that LEC billing and collection for CPP is necessary and, significantly, their position is not supported by the Cellular Telecommunications Industry Association (CTIA).[15] SBC agrees with the CTIA that "there is currently no need to require LECs to provide CPP billing and collection, and that CLECs only have to make available to CMRS carriers the data necessary to bill for CPP." (NPRM, para. 58, & n. 146). As such, LEC billing and collection for CPP should not be required because it does not meet the "necessary and impair" standard of Section

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such billings by rendering CPP bills on a less frequent basis (*e.g.*, quarterly). It stands to reason that the cost to the CMRS provider to render four bills annually would be significantly less than the cost the CMRS provider would incur to have the LEC render twelve bills annually. Finally, if the desire for LEC billing is the potential for a better collection rate, that may no longer be the case. The Commission's *Truth-in-Billing Order* requires carriers to identify deniable and undeniable charges and CPP charges would be identified as undeniable charges, *i.e.*, the nonpayment of which would not result in the disconnection or denial of local exchange service. *In the Matter of Truth-in-Billing and Billing Format*, 14 FCC Rcd 7492, para. 44 (1999).

[13] *Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information For Joint Use Calling Cards*, 7 FCC Rcd 3528 (1992), 8 FCC Rcd 4478 (1993).

[14] *See* 47 U.S.C. § 3(29) defining network elements subject to access and unbundling under § 251(c)(3) limited by the "necessary and impair" standard set forth in § 251(d)(2).

[15] NPRM, ¶ 57, n. 138 & 139. Moreover, Vanguard was recently acquired by AT&T Wireless which has not claimed that LEC billing and collection is necessary.

251(d)(2), particularly when all the necessary billing information is readily available under tariff.[16]

Another reason why the LECs should not be required to bill and collect for CPP is the potential for customer confusion and the loss of goodwill. As previously mentioned, local exchange service customers who are used to paying flat rates for all of their local calling are likely to be confused by CPP and upset with the new charges. LECs should not be held responsible for handling what could be a host of consumer complaints concerning the new serving arrangement, and should not risk a potential reduction in the sale of their core services because of CPP "sticker shock." The LECs' goodwill and core services should be left generally unaffected by the CPP service offerings.

By the same token, LECs should not be prohibited from providing billing and collection services for CPP should they decide to do so and the economics justify having the LECs do the CPP billing and collection. But that should be a marketplace choice, not a regulatory requirement. At this time, there are significant practical and implementation problems associated with billing and collection for CPP. One of those problems is "leakage" or the inability to be compensated for all calls, as when a calling party cannot be matched with a billing address or when there is no mechanism for billing the customer (*e.g.*, when the call is made from a payphone).[17] The SBC wireless affiliate in Chicago, Cellular One, experienced significant problems with leakage and cancelled its CPP

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[16] Section 332 of the Act does not provide an alternative basis for jurisdiction because that Section only applies to wireless not wireline carriers, and because the Commission has determined CPP to be CMRS.

[17] Leakage occurs on a wide variety of calls, including the following: calls from hotel, motel, and hospital telephones; calls from public and semi-public coin telephones; interLATA calls, including 1-0-XXX calls; calls from international phone companies; calls from CLECs; and calls from other wireless companies. The leakage problem caused by calls from CLECs and other wireless carriers raises the additional issue of whether all carriers would be forced to bill and collect for CPP. Many of the existing wireless billing systems are not designed to bill for other carriers and would need to be enhanced to do so at considerable expense.

service offering for new CMRS subscribers in part because of the inability to bill and collect for "leaked" calls.[18]

IV. Calling Parties Should Be Fully Notified By CMRS Providers Of The Price And Essential Terms Of CPP Services And Should Be Allowed To Terminate The Call To Avoid Being Charged.

SBC agrees with the Commission that CPP will represent a significant change for consumers calling a wireless telephone. (NPRM, para. 42). That will be particularly true when the calling party is a wireline local exchange service customer who is used to flat rated local exchange service with unlimited local calling at no additional charge. Consequently, SBC supports the NPRM's proposal to adopt a uniform notification announcement for those callers. (NPRM, para. 42).

SBC also agrees that the uniform announcement should disclose all of the essential terms and conditions, including price, for CPP services, and should disclose that the caller can terminate the call to avoid being charged. The rate information should be specific, and should include notice of any per minute airtime charges as well as any other charges the calling party will be charged by the CMRS provider. Moreover, the notification should require some affirmative action by the calling party – *e.g.*, pressing a designated key – in order to indicate that the calling party is willing to accept the charge and to complete the call. Accordingly, SBC supports the four-part notification requirement set out in the NPRM.

SBC does not believe, however, that the notification requirement should be temporary or that it should be changed to some other form after consumers have become accustomed to CPP and allegedly aware of the potential additional charges involved. (NPRM, para. 44). It is impossible to know for any given caller when that caller will

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[18] Leakage also presents the potential to increase rates for the calling party. The costs of fixing leakage and the inability to bill for *all* calls is likely to raise the rates charged to parties who call CMRS customers with CPP and who do not present a "leakage" problem. If that is the case, CPP calling could be suppressed, the prices increased and the service could become virtually unmarketable, both to calling parties and to wireless customers who previously desired and selected the CPP option.

become aware of the essential terms and conditions of CPP, or when the prices might change. Also, as the Commission correctly notes, it is that notice and disclosure of the rates, terms, and conditions prior to the completion of the call that establishes an enforceable contract between the caller and the CMRS provider. (NPRM, para. 51).[19] Furthermore, there will be an amount of uncertainty without the notification about whether there is a charge associated with a particular call to a wireless customer which could cause some callers to be reluctant to make such calls. For these reasons, the announcement should be clear and should be given by CMRS providers to calling parties on *all* calls to a CMRS subscriber who has the CPP option.

V. The Commission Should Ensure That CPP Providers Do Not Double Recover Costs.

SBC agrees with the NPRM that the record is less than clear on the issues of the relationship between CPP, interconnection, and reciprocal compensation. (NPRM, para. 73). SBC also believes that with CPP there is, at least, a potential for CPP providers to double recover certain costs, and no mechanism in place to regulate or restrain such activity.

Theoretically, at least, the competitiveness of the market should mitigate the potential for that conduct ever taking place. Nevertheless, SBC agrees with the Statement of Commissioner Ness that the possibility raises an issue that should be investigated and considered.[20]

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[19] Use of a "tone" potentially recognizable to callers would not, in SBC's opinion, be sufficient to create such a contract, since that tone may not be recognizable by *all* callers. Similarly, use of a dedicated service code may not be recognized by all callers, and the use of dedicated service codes could also conflict with the Commission's number conservation goals and could contribute to area code depletion.

[20] The competitiveness of the CMRS market will likely mitigate this potential. However, in the CPP context, it is not the CMRS subscriber who is generally charged or who necessarily influences the CMRS provider's determination of the charges to the calling party or the CMRS provider's recovery of any related costs. Also, with CPP, the calling party who pays for the service has no control over the selection of the CMRS provider, and the wireless subscriber may have little incentive to select a CMRS provider based upon its CPP costs and charges to the calling party.

VI. Conclusion.

SBC is not opposed to CMRS providers offering a CPP service option, but believes that the market, not regulation, should determine the availability of such offerings. SBC is opposed to any requirement that LECs bill and collect for CPP, but believes they should not be prohibited from doing so. SBC is opposed to optional CPP being generally applied to paging, and believes that CPP should not result in a double recovery of costs by the provider of the service.

Respectfully submitted,

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September 17, 1999

Attachment

CALLING PARTY PAYS: LET THE MARKET DECIDE

SBC COMMUNICATIONS, INC.

SEPTEMBER 1999

WT DOCKET NO. 97-207

CALLING PARTY PAYS: LET THE MARKET DECIDE

Summary

Calling Party Pays (CPP), a potential Commercial Mobile Radio Service (CMRS) offering to wireless communication service customers, would shift the airtime charges for receiving calls now incurred by CMRS subscribers to parties that originate calls to mobile telephone numbers. As interpreted by the Federal Communications Commission (FCC), the primary potential benefits of CPP include

1) increasing consumer demand for wireless communication services,
2) intensifying competition among rival CMRS providers, and
3) enhancing the attractiveness of wireless services as a competitive substitute for local telephone companies' traditional wireline services.

Lacking any direct evidence or market data indicating how consumer demand for wireless services in the U.S. would respond to CPP implementation, the FCC suggests reviewing the performance of Western European and Latin American wireless markets (where CPP is prevalent). The Commission cites proponents' claims attributing extraordinary increases in the number of wireless subscribers and dramatically higher wireless usage per subscriber solely to the implementation of CPP in Western Europe and Latin America, thereby implying similar results might be expected in the U.S.

The FCC proposes to impose a uniform national standard for announcing the application of charges each time a consumer places a call to a CMRS subscriber that has selected a CPP option. The Commission also suggests further, more extensive regulatory intervention in the CMRS and billing and collection markets might be appropriate to facilitate CPP implementation. Asserting regulatory control (regardless of how extensive) over the competitive CMRS and billing and collection markets, however, is neither necessary nor warranted. The consumer benefits the Commission associates with CPP already are being delivered by competitive market processes. Furthermore, the performance of the U.S. CMRS market demonstrates that the objectives identified by the FCC (accommodating rising consumer demand, intensifying competition, and providing a viable substitute for telephone companies' local services) are being achieved without regulatory intervention. In addition, the available market data indicate the U.S. CMRS market's performance generally matches or exceeds the performance of most Western European and Latin American wireless markets. Finally, regulatory intervention to facilitate the implementation of one particular wireless offering (CPP) or one specific component (billing and collection) of that offering is inconsistent with the current reliance on competitive market forces to ensure efficient results in all other aspects of the CMRS and billing and collection markets. By concluding strict regulatory control of the CMRS and billing and collection markets is unnecessary, the FCC recognizes the competitive process as producing efficient CMRS carrier decisions regarding pricing, marketing strategies, investment programs, and new service development. The CMRS industry will implement CPP absent regulatory intervention if the market indicates potential consumer demand and likely financial results are sufficient to bring forth this new offering.

CALLING PARTY PAYS: LET THE MARKET DECIDE

As industry attention increasingly focuses on Calling Party Pays (CPP) issues and concepts, the Federal Communications Commission (FCC) has begun formally assessing the feasibility and potential effectiveness of regulatory intervention in Commercial Mobile Radio Service (CMRS) markets to encourage the general availability of CPP as an optional service for CMRS subscribers. Issuing a Notice of Proposed Rulemaking (NPRM),[1] the FCC proposes to impose a uniform national standard for announcing the application of charges each time a consumer places a call to a CMRS subscriber that has selected a CPP option.[2] The FCC's interest in encouraging the widespread availability of CPP primarily reflects the view that by substantially enhancing the attractiveness of CMRS as a substitute for access to LECs' networks, particularly among residence subscribers, CPP will directly intensify competition in both the local exchange and CMRS markets.[3]

Although the NPRM recognizes that the FCC has "no data regarding increased usage of CPP subscribers in the United States,"[4] the Commission nevertheless regards "experience overseas,"[5] particularly in Latin America and Western Europe where CPP is sometimes credited with significantly accelerating the growth of wireless telecommunications markets, as suggesting CPP could produce similar effects in the U.S. However, designing national telecommunications policy on the basis of regulators anticipating similarly dramatic increases in CMRS market demand will accompany CPP in the U.S. could be costly and wasteful if expectations are not met. Lacking compelling evidence regarding the separate, individual effects CPP might have on wireless demand, fundamental differences in the structure and behavior of telecommunications markets in Latin America, Western Europe, and the U.S. should be adequately accounted for before drawing conclusions which will influence policy decisions. If the dramatic positive effects on foreign wireless telecommunications markets attributed to CPP significantly overstate

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[1] Declaratory Ruling and Notice of Proposed Rulemaking, WT Docket No. 97-207, In the Matter of Calling Party Pays Service Offering in the Commercial Mobile Radio Services, FCC 99-137 (released July 7, 1999). [Referred to hereafter as CPP NPRM].

[2] The consumer notification standard proposed by the Commission includes 1) announcing that the caller has dialed the number of a wireless subscriber who has chosen the CPP option and the caller "therefore will be responsible for payment of airtime charges; 2) identifying the carrier providing the called party's wireless service and that will bill CPP charges to the calling party; 3) informing the caller of the precise per minute charge for terminating airtime and any additional charges, such as roaming fees or long distance rates, the CMRS provider will bill the caller; and 4) notifying the caller that all charges can be avoided by terminating the call. CPP NPRM at paragraph 42.

[3] CPP NPRM at paragraphs 3, 20, 21.
In the Commission's view, "CPP holds the potential for ... spurring the acceptance and development of services offered by mobile wireless telecommunications providers as competitive alternatives to the services of local exchange carriers" [at paragraph 3], thereby creating the "possibility that CPP could ultimately lead to wireless services becoming a true competitive alternative to the local exchange services offered by ILECs, particularly for residential customers. Another potential benefit is that CPP could spur competition within the CMRS market ... ." [at paragraph 21].

[4] CPP NPRM at paragraph 24.

[5] CPP NPRM at paragraph 1.

the likely impact of CPP in the U.S., the Commission risks unnecessarily intervening in, and imposing restrictions on, a rapidly growing, vigorously competitive CMRS market.

Calling Party Pays — Definition and Fundamental Concepts

Competition in the CMRS market effectively disciplines wireless carriers' prices. Furthermore, price competition has produced alternative mechanisms (e.g., pricing plans that include "first minute free for incoming calls" provisions, including caller a ID feature with subscription to wireless service) to encourage wireless subscribers to increase the number of calls they receive — one of the primary objectives of Calling Party Pays (CPP). Neither regulation of wireless service prices nor a regulatory mandate to provide CPP is necessary.

Calling Party Pays (CPP) Defined

U.S. CMRS subscribers are typically billed for each minute of every call initiated or received. Most wireline subscribers, however, pay a flat monthly price for local telephone service regardless of the number and duration of local calls initiated. Unlike CMRS consumers, U.S. wireline customers do not pay additional charges for receiving local calls.[6] Outside the U.S., especially in Western European nations, telecommunications services are commonly priced per minute of use regardless of the technology (wireless or wireline) used to transport calls or the distance between the originating and terminating points of a call (both local and long distance calls are priced per minute of use). Furthermore, European consumers, whether wireless or wireline subscribers, pay only to originate telephone calls; wireless telecommunications service subscribers are not charged a fee to receive calls.[7] Since only consumers placing telephone calls are billed for the service, this price structure is referred to as "Calling Party Pays" (CPP).

Relationships Between CPP and Consumer Demand

The anticipated benefits associated with CPP depend crucially (and perhaps even solely) on consumers' perception of CPP as a reduction in the price of wireless communications services. Contentions that CPP will significantly increase both CMRS subscribership and usage rely on the fundamental economic principle that an inverse relationship exists between price and quantity demanded; all else equal, the lower the price, the greater the quantity demanded.[8]

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[6] Subscribers explicitly agreeing to accept charges are billed for receiving collect calls, typically long distance or local calls placed from pay phones. In addition, 800 service customers explicitly agree to accept charges for receiving calls when subscribing to the service. In the case of collect calls, however, subscribers are asked whether they will accept charges on a call-by-call basis and in the case of 800 service, paying to receive calls is the predominant feature of the service. In general, however, U.S. wireline subscribers do not expect to pay for receiving calls.

[7] Again, this describes typical circumstances. European wireline telecommunications service subscribers can agree to pay for receiving calls, such as 800 service type offerings.

[8] This fundamental axiom holds for all normal goods and services, assuming no simultaneous changes in variables negatively affecting consumer demand (for example, a decline in the quality of the good or service demanded, a

If consumers view the price of CMRS usage as including components for originating and receiving calls, then CPP can be perceived as reducing to zero the price for receiving calls. With the price for originating CMRS calls unaffected, the perceived effect of CPP could be an overall reduction in the price of CMRS usage. At the perceived lower usage price, higher levels of (originating) usage might be expected for those CMRS subscribers selecting a CPP service option. The FCC explains the expectation that higher CMRS usage will accompany CPP in terms of consumers altering their usage purchases while maintaining a relatively constant overall budget for wireless services.

> "... to the extent that subscribers are comfortable with paying a set amount per month for wireless service, CPP will encourage them to increase the number of calls they make, up to the amount of their monthly CMRS budget, since they no longer will need to pay for, or budget for, incoming calls."[9]

In other words, if the price of receiving calls falls to zero, the FCC suggests that CMRS subscribers would increase originating usage, perhaps to levels equaling their current total usage (i.e., the number of CMRS calls originated with CPP will rise to equal the number of calls originated plus the number of calls received without CPP).[10]

By eliminating the charges for incoming calls, CPP might be perceived as reducing usage charges by current CMRS subscribers, thereby potentially increasing (originating) usage per current subscriber. Potential wireless customers not currently subscribing to CMRS, might view the elimination of charges for receiving calls as a reduction in the overall price of CMRS. As a result of the perceived lower price of CMRS associated with CPP, the FCC believes the number of CMRS subscribers could increase significantly. The Commission observes that "CPP holds the potential for making mobile wireless services more attractive to large numbers of customers who do not subscribe today," especially "low-income, and low-volume and mid-volume consumers."[11] Beyond believing it will encourage an increase in CMRS subscribership, the FCC apparently also presumes that CPP could significantly intensify competition in the local exchange service market.[12]

Finally, by permitting CMRS subscribers to answer calls without incurring any charges, the FCC expects CPP to significantly increase calling from wireline to wireless subscribers, thereby substantially increasing total wireless network usage.[13] Based on the presumption that their behavior is strongly motivated by a firm resolve to avoid paying airtime charges for receiving calls, CMRS subscribers traditionally have been characterized as rarely activating their wireless telephones and carefully restricting the distribution of their wireless telephone numbers.

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decrease in income that would reduce consumers' ability to purchase the good or service, etc.) that would offset the positive effects of a lower price.

[9] CPP NPRM at paragraph 24.

[10] This proposition assumes the price per minute for originating a CMRS call is the same as the per minute price a CMRS subscriber pays for receiving a call.

[11] CPP NPRM at paragraph 3.

[12] CPP NPRM at paragraphs 3, 20, 21.

[13] CPP NPRM at paragraph 23.

By removing wireless customers' concerns about incurring a potentially large expense each time a call is answered, proponents contend CPP might encourage CMRS subscribers to distribute mobile telephone numbers more widely and keep mobile telephone sets operational (i.e., "switched on") for longer periods of time.[14] Because they will not incur airtime charges for answering incoming calls, proponents conclude that CMRS customers with CPP would be much more likely to receive calls than wireless subscribers without an optional CPP service. As a result, proponents allege CPP may increase both the accessibility of CMRS subscribers and the likelihood of completing calls to their particular wireless telephone numbers. Therefore, proponents present CPP as almost certain to increase the number of calling parties, presumably wireline subscribers, placing (and completing) calls to CMRS subscribers.[15]

Calling Parties' Influence on Carriers' CPP Prices

Regardless of any expectation that CPP might increase calls to mobile telephone numbers, the prospective number of calling parties and the potential volume of calls placed to wireless subscribers with CPP could be influenced significantly by carriers' CPP prices. Competition in the CMRS market ensures a direct link between consumer demand for wireless services and carriers' pricing, with both subscribers and providers quickly reacting to changes in market prices. If perceived as changing the basic price of wireless services, CPP might effect subscription levels and usage patterns directly and quickly (although the magnitude of such effects could be relatively modest). However, calling parties' demand for completing calls to wireless subscribers and carriers' CPP prices might be linked only indirectly. As a result, carriers could be less sensitive, and react more slowly, to calling parties' perception of the appropriate CPP price level.

Calling parties would be unable to express dissatisfaction with a particular carrier's CPP price by switching to a rival carrier offering a lower CPP price. The CPP price paid by a calling party for completing a call to a mobile telephone number would be determined by the wireless subscriber's choice of carriers. Rather than being able to choose the lowest available CPP price and completing all planned calls to wireless subscribers, a calling party would only be able to choose either to accept the CPP price of each wireless subscriber's carrier or forego placing some, or all, calls to those mobile telephone numbers. If calling parties consider a particular carrier's CPP price too high, that carrier's subscribers might receive few calls. Perhaps those subscribers expecting to receive more calls might eventually switch to rival providers offering lower CPP prices. Any wireless carrier recognizing a competitive loss of subscribers to rivals with lower CPP prices might be expected to lower its own CPP price. Thus, although competitive market forces could effectively discipline wireless carriers' CPP prices, adjustments might occur relatively slowly.

If a carrier's CPP price is deemed too high by calling parties, that carrier's terminating call (i.e., CPP) revenues could fall below expectations. While the carrier might consider reducing its CPP price in an attempt to increase incoming call volumes and perhaps CPP

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[14] CPP NPRM at paragraph 23.

[15] CPP NPRM at paragraph 23.

revenues (if consumer demand is sufficiently price elastic),[16] any revenue increases the carrier might otherwise experience (for example, from overall CMRS market growth) could dampen the urgency of a potential downward CPP price adjustment. Thus, a carrier attempting to impose a high price on calling parties but experiencing overall revenue growth might be able to delay, but likely could not indefinitely avoid, adjusting its CPP price downward. Finally, carriers establishing CPP prices high enough to deter calling parties from completing calls to mobile telephone numbers would eliminate one of the stated primary objectives of CPP — to increase the volume of incoming calls, and the associated revenue, received by wireless subscribers.

The CMRS Industry, Without Regulatory Intervention, Delivers New Services and Features to Consumers

Although proponents might contend CPP can significantly increase the number of incoming calls completed to wireless subscribers, an alternative mechanism that can produce this same general result is evolving from aggressive price competition in the CMRS market. Carrier pricing plans including a "first minute free for incoming calls" provision are becoming more common.[17] These pricing plans provide wireless subscribers an opportunity to assess the relative value of incoming calls without incurring terminating airtime charges. A wireless subscriber then can decide whether to quickly terminate an incoming call to avoid charges or continue those calls for which the wireless subscriber is willing to pay. The availability of a free call screening process should reduce (and perhaps eliminate) wireless subscribers' reluctance to widely distribute their mobile telephone numbers. In addition, pricing plans featuring a "first minute free for incoming calls" provision also should increase wireless subscribers' willingness to leave their telephone sets in the active mode (i.e., "switched on") and answer incoming calls. Thus, competition in the wireless market has produced a mechanism that can increase the volume of calls terminating at wireless telephone numbers, even absent both CPP and regulatory intervention and/or guidance.

Competitive market processes, without regulatory guidance or intervention, have identified and are delivering other potential consumer benefits the FCC associates with CPP.

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[16] If consumer demand for CPP calls is price elastic (i.e., the absolute value of the price elasticity exceeds unity), price changes result in revenue changes in the opposite direction. Thus, if the absolute value of the price elsaticity of demand is greater than one, a price reduction will produce an increase in revenues.

[17] The Yankee Group, "The Pricing Elasticity of Wireless: Building the Revenue Model," Wireless/Mobile Communications Global Report, vol. 2, no. 37 (August 1998), p. 6. For example, see Sprint's nationwide PCS "Free and Clear" plans (<http://www.sprintpcs.com/learn/pricing.asp>), Aerial Communications' PCS service (<http://www.aerial1.com/storex.htmL>), or PrimeCo's Cost-Controller features, which are included as standard features of every service plan PrimeCo offers (,http://www.primeco.com/standard_features.html>). Alternatively, many carriers, such as AT&T with its nationwide "Digital One Rate" plans (<http://www.attws.com/personal/onerate/main.hmtl>), include a Caller ID feature, permitting wireless subscribers to effectively screen incoming calls and determine which, if any, to answer. Similarly, voice mail is included in many digital wireless service packages (e.g., both Sprint and AT&T digital wireless services include voice mail as a "standard feature"). Voice mail messages can be recorded when callers fail to complete calls to wireless suscribers because their mobile telephone sets are deactivated (i.e., "switched off"). To some extent, voice mail messages can be regarded as a substitute for completing calls to wireless subscribers. If wireless subscribers choose to respond to recorded messages by originating additional calls, widespread availability of voice mail can encourage increased wireless usage. While it is not intended to increase the proportion of completed incoming calls, voice mail can increase overall wireless usage while satisfying subscribers' apparent desire to avoid charges for answering calls.

The Commission expresses the view that CPP might make wireless communication services more attractive to a much wider range of potential subscribers.[18] Competitive markets provide financial incentives for suppliers to identify and eliminate unsatisfied consumer demand. Each CMRS provider attempting to secure a competitive advantage over rival carriers will seek opportunities to significantly broaden its subscriber base by attracting subscribers away from competitors, capturing new market growth, and developing new services to eliminate unsatisfied consumer demand among groups of potential subscribers. The introduction of prepaid wireless services, for example, apparently is particularly appealing to consumers who value highly the ability to strictly control wireless communication expenditures (such as parents purchasing mobile telephones for children). Customers subscribing to prepaid wireless service plans typically must maintain positive (i.e., greater than zero) account balances against which usage charges and perhaps service fees are applied. Service is suspended and subscribers are unable to either make or receive calls if the prepaid service account balance is depleted (i.e., falls to, or below, zero).[19] Due to the nature of the billing arrangement, prepaid wireless services require no credit checks, creating an opportunity for each carrier to expand the scope of its marketing efforts as it attempts to broaden its customer base and strengthen its revenue stream. For instance, one provider of prepaid wireless services indicates its prepaid service customers generally tend to be younger, less likely to be married, more likely to earn a lower income, and have fewer years of formal education than its traditional wireless subscribers who are billed monthly for service.[20] Thus, competitive market forces, absent regulatory intervention, are ensuring the benefits of wireless communication services are delivered to a significantly wider

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[18] CPP NPRM at paragraph 3.

[19] The Commission describes one type of prepaid plan, which requires subscribers to purchase specified number of airtime minutes and a mobile telephone instrument which ceases to function when the prepaid usage time expires unless the customer purchases additional usage time. See, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Fourth Report, FCC 99-136 (released June 24, 1999), p. 16. [Referred to as CMRS Fourth Report hereafter]. The specific terms and conditions of prepaid plans can vary significantly across carriers. For examples, see The Yankee Group, "Prepaid Wireless Series, Part 1: Service Becomes More Affordable," Wireless/Mobile Communications Global Report, vol. 3, no. 21 (July 1999), p. 3.

Omnipoint, for instance, suspends the service of its No-Fee Prepay service subscribers that allow their account balances to expire (i.e., drop to zero), but subscribers' accounts are not canceled unless no additional payments are made during the 110 days subsequent to the date of suspension (<http://www.omnipoint.com/store/nystate/howmuch/prepay/prepay3.html>). Similarly, Sprint's PCS prepaid service permits subscribers to maintain zero, or negative, account balances for up to 90 consecutive days before such customers are disconnected. (The terms and conditions of Sprint's PCS prepaid service are available online at <http://www.spritpcs.com/learn/prepaid_desc..html>). The potential application of a CPP option to prepaid service plans containing such pre-disconnection "grace periods" might increase the proportion of incoming calls completed to wireless subscribers. Since calling parties (rather than prepaid wireless service subscribers) would be responsible for usage charges if a CPP option applies, presumably wireless subscribers with a CPP option would be able to receive calls even after prepaid account balances fell to, or below, zero during pre-disconnection "grace periods" (i.e., after the ability of prepaid subscribers with zero or negative account balances to initiate wireless calls is suspended, but before such customers are disconnected). By definition, any usage involving prepaid subscribers with a CPP option and zero or negative account balances must be incoming calls. As a result, in these limited circumstances, CPP will by definition increase the proportion of wireless usage terminating at mobile telephones. However, the volume of calls completed to prepaid wireless service subscribers with a CPP option whose service has been suspended but not yet disconnected would have to be unrealistically overwhelming to significantly change the aggregate usage distribution characterizing the overall U.S. CMRS market.

[20] CPP NPRM at paragraph 22, footnote 50.

range of consumers by financially rewarding CMRS carriers for recognizing and eliminating this previously unsatisfied consumer demand.

The U.S. CMRS Market Is Rapidly Growing and Vigorously Competitive

Vigorous competition in the CMRS market, intensified by the entry of broadband PCS and digital SMR service providers, has reduced wireless service prices significantly. Highly competitive urban markets are experiencing price cuts in excess of 50% in some cases. At least partially in response to continuously declining prices, the number of subscribers has increased at an annual rate of nearly 33% over the past few years, resulting in a wireless penetration rate of nearly 29% by early 1999. With the number of subscribers expected to continue increasing at about a 15% annual rate, wireless penetration could reach 47% within the next 3 - 4 years. Demonstrating a preference for the quality, features, and lower prices of digital services, almost 95% of new wireless customers are subscribing to digital services. Overall average usage across all digital subscribers, currently exhibiting annual growth rates ranging between 20% - 35%, is expected to continue steadily rising toward a level of about 260 minutes per month over the next five years. With the number of wireless subscribers and usage expected to continue rising steadily (after growing at annual rates exceeding 30% over the past few years) and competition significantly lowering market prices (a trend which also is expected to continue), regulatory intervention intended to either stimulate growth of the CMRS market or increase competition between wireless carriers is both unnecessary and unwarranted.

Competitive Entry by Digital Service Providers

The U.S. mobile telephony market is experiencing "strong growth and competitive development," with broadband Personal Communication Service (PCS) and digital Specialized Mobile Radio (SMR) providers continuing to "aggressively deploy their networks."[21] Competitive entry (by broadband PCS and digital SMR providers) has affected 99 of the 100 largest Basic Trading Areas (BTAs) in the continental U.S.[22] Focusing on urban population centers, entry has resulted in at least five mobile telephony providers operating in each of the 35 largest BTAs, representing about 74% of the U.S. population.[23] In addition, the heightened level

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[21] CMRS Fourth Report, pp. 4, 6.
Broadband Personal Communication Service (PCS) is a digital wireless service that "can replicate many of the features of wireline" networks. [p. 12]
Although the primary use of Specialized Mobile Radio (SMR) networks traditionally has been for dispatch services (e.g., delivery services requiring a communication system between an office and numerous trucks), SMR networks can be designed to interconnect with local telephone companies' networks. Digital technologies enable SMR providers to effectively compete in mobile telephony markets. [pp. 32, 47].

[22] CMRS Fourth Report, p. 20.
Rand McNally & Company identifies geographic boundaries for each Basic Trading Area (BTA) based on the counties in which the residents of the BTA make the majority of their consumer purchases. [p. 6, footnote 19].

[23] CMRS Fourth Report, pp. 6, 20.

of competitive intensity associated with entry has become a permanent characteristic of the CMRS market with broadband PCS and digital SMR providers attracting 45% of new CMRS subscribers, resulting in an overall U.S. mobile telephony market share of 14%.[24] Successful CMRS market entry is further emphasized by estimates that broadband PCS and digital SMR providers have a combined market share exceeding 25% in "more than a half dozen" specific geographic markets.[25]

Competition Is Reducing Prices Substantially

Beyond these indications that CMRS market entry is occurring with new entrants profiting (presumably) at the expense of incumbent suppliers, the increased consumer welfare resulting from a sustained decline in wireless telecommunications service prices provides additional strong evidence that the competitive process is working successfully. Acknowledging the consumer benefits resulting from competition in the U.S. CMRS market, the FCC concludes "... because of growing competition in the marketplace, it appears that the average price of mobile telephone service has fallen substantially during the [past] year ... continuing the trend of the last several years."[26] The Commission cites estimates that overall CMRS prices fell 18% over the year ended second quarter 1998.[27] Although relatively more intense competition for lucrative high volume accounts pushed the average price per minute down by more than 20% for subscribers purchasing 600 minutes of use, price reductions of 11% - 15% have been noted for subscribers purchasing only 60 minutes of use per month.[28] Recognizing CMRS competition also is exerting substantial downward pressure on roaming charges, which have typically ranged between $0.50 and $1.00 per minute, the FCC reports "... to remain competitive, carriers expect that they will continue to proactively renegotiate their reciprocal roaming rates between operators to reduce rates even further."[29]

Although the FCC recognizes the average price reductions produced by competition in the overall U.S. CMRS market, competitive pressures appear to be most intense in the largest urban market areas. With typically five, and sometimes as many as seven, rivals supplying wireless telecommunications services in the largest U.S. cities, prices are declining even more dramatically in these highly competitive market areas. For example, between 1996 and 1998, the average price per minute for wireless subscribers purchasing 100 minutes of use per month (70% of which occur at peak times) fell 57% in New York City, 49% in Los Angeles, 27% in Chicago, and 19% in Boston (Table 1). At higher usage levels, wireless subscribers are benefiting from increasingly deeper price cuts. Over the same two year period (1996 - 1998), the average price

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The FCC points out "... there are now at least five mobile telephone operators in each of the 35 largest Basic Trading Areas." [p. 6] Emphasizing the extent of competitive entry, the Commission also notes, "... BTAs containing approximately 74 percent of the population have at least five mobile telephone operators providing coverage in some portion of their area." [p. 20].

[24] CMRS Fourth Report, pp. 10, 23.

[25] CMRS Fourth Report, pp. 10, 23.

[26] CMRS Fourth Report, p. 7.

[27] CMRS Fourth Report, pp. 21-22.

[28] CMRS Fourth Report, pp. 21-22.

[29] CMRS Fourth Report, p. 23.

per minute dropped over 60% in the Los Angeles and New York City markets for wireless subscribers purchasing 250 minutes of use per month; and consumers in Chicago and Boston experienced price decreases approaching 50% for 250 minutes of wireless telecommunications service (Table 1). The deepest price cuts, however, apply to even higher monthly usage volumes, consistent with the observation that such lucrative high volume accounts are the focus of intense price competition. The average price per minute decreased between 50% and 80% for wireless subscribers at the highest usage levels (i.e., 500 and 1,000 minutes of use per month) in these four large U.S. metropolitan area markets (Table 1).

With the competitive process well established in the U.S. CMRS market, carriers offering the lowest prices should be rewarded with increasing demand for their particular services as consumers shift purchases away from the higher priced offerings of rival carriers. The development and increasingly widespread deployment of digital technologies is the primary reason for the dramatic CMRS price reductions experienced over the past few years. Reflecting the increased efficiency and higher capacity available with digital technologies, prices for digital wireless services are significantly lower than prices for services relying on analog technologies. The FCC cites AT&T's "Digital-One-Rate" pricing plan as an example. The price per minute ranges between 10¢ and 15¢ with no additional long distance or roaming charges for subscribers purchasing one of three large bundles of usage (600, 1000, or 1400 minutes of use per month).[30] Consumer response to this competitive pricing plan has been strong, with AT&T reporting the addition of 850,000 digital service subscribers, about 2/3 of which were new subscribers to AT&T wireless service, during the seven months following the introduction of the "Digital-One-Rate" plan.[31] The U.S. CMRS market thus exhibits one of the fundamental characteristics of vigorously competitive markets — consumers readily switching between rival suppliers to take advantage of lower prices (i.e., the price elasticity of demand is relatively high).

With digital wireless service prices generally 12% to 28% (depending upon a subscriber's monthly usage volume) below analog cellular service prices[32] and 94% of new wireless customers subscribing to digital services,[33] competition in the U.S. CMRS market should be sufficiently vigorous to sustain the downward trend in wireless prices. Forecasts of U.S. CMRS market conditions over the next five years (from 1999 to 2004) reveal expectations that wireless

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[30] CMRS Fourth Report, p. 11.

[31] CMRS Fourth Report, p. 12.

[32] The Yankee Group, "The Pricing Elasticity of Wireless," p. 6.

[33] The Yankee Group, "Year-End 1998 Wireless Industry Update: The Impact of All-Inclusive Rates," Wireless/Mobile Communications Global Report, vol. 2, no. 46 (December 1998), Exhibit 7, p. 10.

TABLE 1

Wireless Telecommunications Services
Average Price per Minute *

Market	100 Minutes of Use			250 Minutes of Use			500 Minutes of Use			1,000 Minutes of Use		
	Average Price per Minute 1996	1998	Percent Change	Average Price per Minute 1996	1998	Percent Change	Average Price per Minute 1996	1998	Percent Change	Average Price per Minute 1996	1998	Percent Change
Boston	$ .37	$ .30	- 19 %	$ .38	$ .21	- 45 %	$ .31	$ .15	- 52 %	$ .29	$ .10	- 66 %
Chicago	$ .41	$ .30	- 27 %	$ .35	$ .18	- 49 %	$ .31	$ .10	- 68 %	$ .18	$ .07	- 61 %
Los Angeles	$ .73	$ .37	- 49 %	$ .55	$ .20	- 64 %	$ .45	$ .15	- 67 %	$ .38	$ .11	- 71 %
New York City	$ .69	$ .30	- 57 %	$ .59	$ .22	- 63 %	$ .47	$ .17	- 64 %	$ .43	$ .08	- 81 %

* As calculated by The Yankee Group, the Bundled Price per Minute (BPPM) is based on the least expensive pricing plan available for the selected usage level in each market area. The Bundled Price per Minute (BPPM) includes the monthly subscription price, additional charges (if any) for usage beyond the usage level included in the subscription price (if additional usage is necessary to reach the selected monthly usage level for which the average price is being calculated), and any applicable taxes. BPPM is calculated by summing the monthly subscription price, monthly additional usage charges (if any), and applicable taxes and then dividing this sum by the number of minutes for each selected monthly usage level. BPPM is calculated assuming 70% of subscribers' monthly usage occurs during peak times.

Sources: 1996 average usage prices are from The Yankee Group, "Pricing Wireless: A Global Comparative Assessment," Wireless/Mobile Communications North America Report, vol. 4, no. 103 (November 1996), Exhibits A-2 - A-5.

1998 average usage prices are from The Yankee Group, "Worldwide Wireless Pricing, the Sequel: Driving Penetration and Landline Displacement," Wireless/Mobile Communications Global Report, vol. 2, no. 14 (March 1998), Exhibits 6c - 6f.
A detailed explanation of the BPPM formula and its calculation is presented at pages 4-5 of this Report.

service prices could continue declining 12% annually.[34] The substantial price reductions for CMRS over the past few years and expectations that the downward trend in wireless service prices will continue should increase consumer demand for CMRS in the U.S. (i.e., the inverse relationship between price and quantity demanded indicates CMRS subscribership and usage should increase as a result of declining prices).

CMRS Market Growth

Consistent with the expectation that demand for wireless services will rise as prices fall, the U.S. CMRS market has expanded significantly during the 1990s, with the number of CMRS subscribers increasing at an annual rate of 39% over the past nine years.[35] During the first half of the decade, CMRS subscribership grew at a 46% annual rate. While such rapid growth should be expected to decelerate somewhat as the penetration rate for CMRS rises, growth in CMRS subscribership nevertheless has remained strong, increasing at an annual rate of 27% over the past three years. With over 69 million subscribers, CMRS had achieved a 26% penetration rate by the end of 1998.[36] Furthermore, the U.S. CMRS market is expected to continue this pattern of strong growth (consistent with anticipating CMRS prices will continue along a downward trend). Industry and financial market analysts' forecasts generally indicate continued growth over the next few years, with wireless subscribership increasing 14% - 15% annually and CMRS penetration potentially reaching 47% by the year 2002.[37] Thus, beyond the addition of 13.9

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[34] The Yankee Group, "The Pricing Elasticity of Wireless," Exhibits 7a - 7b, pp. 14-15.
The average digital service price per minute is expected to fall from 30¢ in 1999 to 17¢ in 2004, while the average price per minute for analog service is forecasted to drop from 40¢ to 21¢.

[35] Total CMRS subscribers rose from 3,508,944 in December 1989 to 33,785,661 in December 1995 (a 45.9% annual growth rate over the first half of the decade). By December 1998 the number of CMRS subscribers had increased to 69,209,321 (a 27% annual growth rate from December 1995 to December 1998). See, Cellular Telecommunications Industry Association, Semi-Annual Wireless Survey, December 1985 to December 1998, available online at < http://www.wow-com.com/wirelesssurvey/>. [Referred to as CTIA Survey hereafter].

[36] The CMRS penetration rate represents the percentage of the national population that subscribes to wireless telecommunications services (i.e., CMRS subscribers divided by the national population). See, CMRS Fourth Report, p. 8.

[37] The FCC summarized ten industry expert / financial market analyst firms' forecasts, producing "Average," "Upper Bound," and "Lower Bound" estimates of U.S. CMRS market performance over the period 1998 - 2002. Since the "Average" forecast of total subscribers for 1998 (68.5 million CMRS subscribers) was slightly below the actual number of subscribers for 1998 (69.2 million) reported via the CTIA Survey, the "Lower Bound" forecasts might appear unduly pessimistic. Perhaps the focus should be on the "Average" and "Upper Bound" forecasts as inputs to policy development. See, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Third Report, FCC 98-91 (released June 11, 1998), Appendix B, Tables 5A - 5E, pp. B-7 - B-9. [Referred to as Third CMRS Report hereafter].

Forecasts of U.S. Wireless Communications Market Growth

	Wireless Subscribership		Compound Annual Growth Rates	Wireless Penetration Rates	
	1998	2002	1998 – 2002	1998	2002
Average Estimate	68,488,000	114,551,000	13.7 %	25.4 %	41.0 %
Upper Bound Estimate	73,981,000	130,381,000	15.2	27.4	46.7
CTIA Survey (actual)	69,209,321			26	

million new subscribers during 1998, the U.S. CMRS market is expected to attract another 11.3 to 15.3 million new customers annually over the next four years.[38]

The aggressive price competition in the U.S. CMRS market accompanying the emergence and increasingly more extensive deployment of digital wireless technology has produced similar positive effects on subscriber usage. With digital wireless (i.e., digital cellular and PCS) usage prices as much as 28% lower than analog wireless usage rates, average usage per PCS subscriber is double to triple analog cellular subscribers' average monthly usage of about 100 minutes per month.[39] In addition, nearly all PCS carriers offer the first incoming minute free and most PCS providers no longer differentiate between peak and off-peak usage.[40] As consumer demand shifts away from analog cellular service toward the more attractive digital service offerings, overall usage per subscriber should be expected to increase in the U.S. CMRS market.[41]

Furthermore, overall wireless usage per subscriber, regardless of technology, should increase as prices decline. While consumer demand for analog wireless services might be expected to lag behind (and even decline relative to) demand for digital services, analog subscribers' usage should respond positively to falling prices. As the overall average price per minute for analog cellular services declined an estimated 16% from 1996 to 1998, analog subscribers' usage is estimated to have risen about 11% (from an estimated 88 minutes per month in 1996 to 98 minutes per month in 1998).[42] Competition and consumer demand grew even more strongly in the digital wireless services market segment over this two year period. Digital services usage prices are estimated to have declined more steeply (over 25% from late 1996 through 1998) and usage per digital service subscriber is estimated to have risen more sharply

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[38] The number of CMRS subscribers increased from 55,312,293 in December 1997 to 69,209,321 by December 1998. CTIA Survey.
CMRS subscribership is expected to be between 114,551,000 (the "Average" forecast) and 130,381,000 (the "Upper Bound" forecast) in 2004. Third CMRS Report, Appendix B, Tables 5A - 5E, pp. B-7 - B-9.

[39] The Yankee Group, "The Pricing Elasticity of Wireless," pp. 6-7. The analog cellular subscribers of six major carriers averaged between 96 and 122 (depending upon the carrier) minutes of use per month during the first quarter 1998. Alternatively, average monthly usage for five major PCS providers' subscribers ranged between 141 and 292 (depending upon the carrier) minutes.

[40] The Yankee Group, "The Pricing Elasticity of Wireless," p. 6.

[41] "At the end of 1998, digital subscribers made up 29 percent of the industry total, up from 14 percent at the end of 1997." Fourth CMRS Report, p. 10.
The proportion of total wireless communications customers in North America (the U.S. and Canada combined) that subscribe to digital services could be as high as 67% by the year 2002. The Yankee Group, "Yankee Group Around the World: Regional Cellular / PCS Market Forecasts," Wireless/Mobile Communications Global Report, vol. 2, no. 8 (February 1998), p. 5.
Since PCS providers' price structures are particularly appealing to large users, PCS subscribers' usage, on average, should exceed the industry average. However, even at low usage levels, such as 60 minutes per month, PCS providers' prices per minute are about 14% below analog cellular usage prices. The Yankee Group, "The Pricing Elasticity of Wireless," Exhibit 4, p. 9.

[42] The Yankee Group, "The Pricing Elasticity of Wireless," Exhibits 2 ,7a, pp. 5, 14. Prices are the "Bundled Price per Minute" (BPPM) as calculated by the Yankee Group.

(20% to about 35%).[43] The average usage per digital wireless (PCS and digital cellular combined) subscriber is estimated to have been about 180 minutes per month in 1998.[44]

CMRS subscribers' usage is expected to continue rising, consistent with the generally anticipated strong growth in the market overall. Over the five year period beginning with 1998, average usage per analog wireless subscriber could grow at a 9% annual rate, reaching about 150 minutes per month in 2003.[45] Average usage per digital wireless subscriber could increase at an annual rate of nearly 7.5%, to about 260 minutes per month in 2003.[46]

Telecommunications policies requiring regulatory intervention to stimulate growth in the CMRS market will be difficult to reconcile with evidence from the market. With the U.S. CMRS market expanding rapidly and consumer demand for wireless services expected to remain strong over the next few years, regulatory intervention seems unwarranted. Further, with prices falling significantly over the past few years and expected to continue moving downward as a result of increasingly more intense competition, regulatory intervention in the U.S. CMRS market to stimulate competition between wireless communication services providers also appears unwarranted. To the extent CMRS market growth and competition among CMRS providers are U.S. telecommunications policy goals, market forces are achieving these objectives absent regulatory intervention and despite the view that "current CPP offerings have been limited in scope."[47] The FCC nevertheless suggests exploring and analyzing experiences with CPP in foreign nations, especially Europe and Latin America, where "CPP seems to be the prevalent billing system for mobile telephony."[48]

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[43] The Yankee Group, "The Pricing Elasticity of Wireless," pp. 7-8, 14-15.
The BPPM for PCS declined from 42¢ in late 1996 to 31¢ in 1998 for PCS (-26%), while the digital cellular BPPM fell from 54¢ to 39¢ over the same period (-28%); PCS usage per subscriber rose from 165 minutes per month to 200 minutes per month (21%), while digital cellular service usage increased from 125 to 167 minutes per month (34%).

[44] The Yankee Group, "The Pricing Elasticity of Wireless," Exhibit 7b, p. 15.

[45] The Yankee Group, "The Pricing Elasticity of Wireless," Exhibit 7a, p. 14.

[46] The Yankee Group, "The Pricing Elasticity of Wireless," Exhibit 7b, p. 15.
As consumers continue moving toward digital wireless services and away from analog service offerings, an increasingly larger proportion of digital service subscribers could be characterized as "lower usage" customers, which would tend to dampen the expected growth rate for digital usage per subscriber. Hence, forecasts that indicate digital usage per subscriber might grow more slowly than analog usage per subscriber are consistent with observed market trends. Further, the Yankee Group notes analog usage per subscriber might rise as high as "173 average monthly MOUs in the year 2007, so long as there are analog subscribers remaining." [p. 14].

[47] CPP NPRM at paragraph 21.

[48] CPP NOI at paragraph 6.